

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1603

AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 16-32-3-1, AS AMENDED BY P.L.99-2007, SECTION 155, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. It is the policy of this state to encourage and enable individuals who are blind, individuals with a visual disability, and other individuals with a physical **or mental** disability to participate fully in the social and economic life of the state and to engage in remunerative employment.

SECTION 2. IC 16-32-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. As used in this chapter, "service animal" refers to an animal trained as:**

- (1) a hearing animal;**
- (2) a guide animal;**
- (3) an assistance animal;**
- (4) a seizure alert animal;**
- (5) a mobility animal;**
- (6) a psychiatric service animal; or**
- (7) an autism service animal.**

SECTION 3. IC 16-32-3-2, AS AMENDED BY P.L.99-2007, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) As used in this section, "public accommodation" means an establishment that caters or offers

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services, facilities, or goods to the general public. **The term includes the following educational facilities:**

- (1) **A nursery school.**
- (2) **An elementary school.**
- (3) **A secondary school.**
- (4) **An undergraduate or postgraduate public or private institution.**
- (5) **Other places of education.**

(b) A person who:

- (1) is totally or partially blind;
- (2) is hearing impaired; or
- (3) has a physical **or mental** disability;

is entitled to be accompanied by a ~~guide dog~~, **service animal**, especially trained for the purpose, in any public accommodation without being required to pay an extra charge for the ~~guide dog~~. **service animal**. However, the person is liable for any damage done to the accommodation by the ~~dog~~. **service animal**.

(c) A person who:

- (1) refuses access to a public accommodation; or
- (2) charges a fee for access to a public accommodation;

to a person who is totally or partially blind, who has a hearing impairment, or who has a physical **or mental** disability, because that person is accompanied by a ~~guide dog~~ **service animal** commits a Class C infraction.

(d) A ~~guide dog~~ **service animal** trainer, while engaged in the training process of a ~~guide dog~~, **service animal**, is entitled to access to any public accommodation granted by this section.

SECTION 4. IC 16-32-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A person not totally blind who:

- (1) approaches a totally or partially blind pedestrian carrying a cane predominantly white or metallic in color, with or without a red tip, or using a ~~guide dog~~, **service animal**; and
- (2) fails to take all necessary precautions to avoid injury to the blind pedestrian;

commits a Class C infraction.

(b) A person not totally or partially blind who carries, in a public place, a cane or walking stick that is white and tipped with red commits a Class C infraction.

SECTION 5. IC 16-32-3-5, AS AMENDED BY P.L.99-2007, SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. It is the policy of this state that

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individuals who are blind, individuals with a visual disability, and other individuals with a physical **or mental** disability shall be employed in:

- (1) the state service;
- (2) the service of the political subdivisions of the state;
- (3) the public schools; and
- (4) all other employment supported in whole or in part by public funds;

on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

SECTION 6. IC 22-9-5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. As used in this chapter, "service animal" refers to an animal trained as:**

- (1) a hearing animal;**
- (2) a guide animal;**
- (3) an assistance animal;**
- (4) a seizure alert animal;**
- (5) a mobility animal;**
- (6) a psychiatric service animal; or**
- (7) an autism service animal.**

SECTION 7. IC 22-9-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 20. (a)** The prohibition against discrimination in section 19 of this chapter includes medical examinations and inquiries. Except as otherwise provided by this section, a covered entity may not conduct a medical examination or make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability.

**(b)** A covered entity may make preemployment inquiries into the ability of an applicant to perform job related functions.

**(c)** A covered entity may require a medical examination after an offer of employment has been made to a job applicant and before the commencement of the employment duties of the applicant and may condition an offer of employment on the results of that examination if:

- (1) all entering employees are subjected to the examination regardless of disability;
- (2) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:

- (A) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee

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and necessary accommodations;

(B) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(C) government officials investigating compliance with this chapter shall be provided relevant information on request; and

(3) the results of the examination are used only in accordance with this chapter.

(d) A covered entity may not require a medical examination and may not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job related and consistent with business necessity.

(e) A covered entity may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job related functions. Information obtained under this subsection is subject to the requirements of subsection (c)(2) and (c)(3).

**(f) A covered entity may not interfere, directly or indirectly, with the use of an animal that has been or is being specially trained as a service animal.**

**(g) A covered entity may not refuse to permit an employee with a disability to keep a service animal with the employee at all times in the place of employment.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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**HEA 1603 — Concur+**

